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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,453	07/07/2003	Wesley Allen Johnston	2145-00200	7563
23505	7590	03/15/2005	EXAMINER	
CONLEY ROSE, P.C. P. O. BOX 3267 HOUSTON, TX 77253-3267			CHAMBERS, MICHAEL S	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 03/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/614,453

Applicant(s)

JOHNSTON, WESLEY ALLEN

Examiner

Mike Chambers

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Cane (5046984). Cane discloses a ball dispenser; and a pivoting ball deflector (fig 4). In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112).

Also,

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Spier (3814421). Spier discloses a ball dispenser; and a pivoting ball deflector (fig 1 ). The basketball goal is considered the ball dispenser since it dispenses the ball during play. In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112).

Also,

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Natwick (4215867). Natwick discloses a ball dispenser (fig 2); and a pivoting ball deflector (fig 10, 4:35-45 ). In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112).

As to claim 2 : Natwick discloses a frame, rotatable resilient member and means for affixing said member to said frame (fig 10).

As to claim 3 : Natwick discloses a ball deflector detached from ball dispenser (fig 10).

As to claim 4 : Natwick discloses a frame (fig 10, items 58,38).

As to claim 5 : Natwick discloses a frame that contacts resilient member in at least 1 point (fig 10, un-numbered hinge).

As to claim 6 : Natwick discloses a resilient member that pivots about an axis (fig 10).

As to claim 7 : Natwick discloses a predetermined angle (fig 10).

Also,

Claims 1-7, and 9-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Courtright (6733403). Courtright discloses a ball dispenser; and a pivoting ball deflector (fig 3 ). The basketball goal is considered the ball dispenser since it dispenses the ball during play. In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112).

As to claim 2 : Courtright discloses a frame, rotatable resilient member (120) and means for affixing said member to said frame (fig 1,8).

As to claim 3 : Courtright discloses a ball deflector detached from ball dispenser (fig 1,8).

As to claim 4 : Courtright discloses a frame (fig 2, item 152).

As to claim 5 : Courtright discloses a frame that contacts resilient member in at least 1 point (fig 2, item 152).

As to claim 6 : Courtright discloses a resilient member that pivots about an axis (fig 2, 11:25-30).

As to claim 7 : Courtright discloses a predetermined angle (fig 3).

As to claim 9 : Courtright discloses a net (fig 4).

As to claim 10 : Courtright discloses a non-stretch material (6:58-7:13, ).

Also,

Claims 1-7, and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Manix et al (6537161). Manix et al discloses a ball dispenser; and a pivoting ball deflector (fig 1,.2 ). The basketball goal is considered the ball dispenser since it dispenses the ball during play. In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112).

As to claim 2 : Manix et al discloses a frame, rotatable resilient member (16) and means for affixing said member to said frame (fig 1,2).

As to claim 3 : Manix et al discloses a ball deflector detached from ball dispenser (fig 1,2).

As to claim 4 : Manix et al discloses a frame (fig 7).

As to claim 5 : Manix et al discloses a frame that contacts resilient member in at least 1 point (fig 7).

As to claim 6 : Manix et al discloses a resilient member that pivots about an axis (fig 1,2, 6).

As to claim 7 : Manix et al discloses a predetermined angle (fig 6).

As to claim 8 : Manix et al discloses an adjustable angle (fig 6, 3:55-61).

As to claim 9 : Manix et al discloses a net (fig 1).

Also,

Claims 1-7, and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Bewley (6616555). Bewley discloses a ball dispenser; and a pivoting ball deflector (fig 1 ).

As to claim 2 : Bewley discloses a frame, rotatable resilient member and means for affixing said member to said frame (fig 1).

As to claim 3 : Bewley discloses a ball deflector detached from ball dispenser (fig 1).

As to claim 4 : Bewley discloses a frame (fig 4).

As to claim 5 : Bewley discloses a frame that contacts resilient member in at least 1 point (fig 4).

As to claim 6 : Bewley discloses a resilient member that pivots about an axis (fig 4, 5).

As to claim 7 : Bewley discloses a predetermined angle (fig 1).

As to claim 8 : Bewley discloses an adjustable angle (fig 4, 5:60-65).

As to claim 9 : Bewley discloses a net (6:15-25).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bewley as applied to claim 1 and further in view of Leps (5232218). Bewley discloses the elements of claim 11, however it fails to clearly disclose the use of a releaser and pivotable lever. Leps discloses the use of use of a releaser and pivotable lever (fig 2). The specification provides no unexpected results in using releaser and pivotable lever. It would have been obvious to one of ordinary skill in the art to have selected an any one of several equivalent release mechanisms including the mechanism of Leps based on cost and design considerations.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Chambers whose telephone number is 571-272-4407. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

5232218\*6616555\*6537161\*6733403\*4215867\*3  
814421\*5046984

Michael Chambers  
Examiner  
Art Unit 3711

March 9, 2005

  
**Sebastiano Passaniti**  
Primary Examiner